IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5372 OF 2007

Abdul Waheed Abdul Aziz Qureshi.... ....Petitioner
V/s
The State of Maharashtra & Ors..... ....Respondents.

Mr.Niyaz Ahmed, Adv. For the petitioner.

Mr.S.P.Bharti, Adv. For the respondents.

CORAM: A.P.DESHPANDE, J.
12/9/07

PC:

The present petitioner takes exception to an order passed by this Court on 11.4.07 allowing the notice of motion and referring the dispute to arbitration. The petitioner is original plaintiff. The suit is filed for mandatory injunction with a view to obtain no objection letter from the defendant No.2 about there being no dues in respect of the vehicle bearing No.MH-04-H-4587 and a further injunction is sought to remove the endorsement from the record of defendant No.2-R.T.O. The defendant No.1-Shriram Transport & Finance Company filed its written statement and at the outset therein pleaded that there is an arbitration agreement entered into between the plaintiff and defendant No.1 and hence the dispute be referred to the arbitrator pursuant to the agreement dated 9.1.03. The arbitration agreement so also hire purchase agreement was placed on record of the trial Court. Reference of the dispute to

arbitration was opposed by the plaintiff by contending that the plaintiff did not execute any agreement of hire purchase or arbitration. The trial Court going by the arbitration agreement being of the view that the subject matter of the suit and the subject matter of the arbitration agreement being the same has proceeded to pass an order referring the dispute to the arbitral tribunal i.e. sole arbitrator. The request made by the defendant No.1 for referring the dispute to arbitration was opposed only on the ground that the plaintiff has not executed the arbitration agreement. On perusal of the arbitration agreement the trial Court being satisfied about the same having been executed by the plaintiff has passed the order. Perused the order. Same does not call for interference in exercise of writ jurisdiction. Hence writ petition is summarily dismissed.

12.9.07